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November 19, 2004

Ms. Kyra Moore  
Chief, Operations Section  
Missouri Department of Natural Resources  
Air Pollution Control Program  
P.O. Box 176  
Jefferson City, MO 65102-0176

Re: Comment on Regulatory Impact Report for 10 CSR 10-6.065

Dear Kyra:

On behalf of Missouri Ag Industries Council, Inc. ("Mo-Ag"), I am submitting these comments on the Regulatory Impact Report for the Operating Permit Rule 10 CSR 10-6.065. Mo-Ag is Missouri's only agribusiness trade association representing hundreds of grain elevators, feed mills, terminal elevators and other agribusinesses regulated by the Missouri Air Conservation Law.

10 CSR 10-6.065(3) Single, Multiple or General Permits.

I suggest amending the introductory paragraph under subsection (A) that excludes exempt facilities. I suggest the following language: "[Pursuant to this section] Unless otherwise exempt, an installation must have a permit..."

Section (3)(A) 4 states that "When determining operating permit classification (part 70, intermediate or basic state), the installation shall calculate the potential to emit for the entire installation and all multiple permits shall be subject to the same operating permit classification." This subsection should be amended to clarify that basic state installations do not have to include exempt installations and emission units in PTE calculations. Presently, 10 CSR 10-6.065(3)(C) only requires "[e]missions from exempt installations and emission units . . . be considered when determining if the installation is a part 70 or intermediate installation." Therefore, the Missouri Air Conservation Commission regulations do not require basic state installations to include exempt installations and emission units in PTE calculations. Therefore, Mo-Ag suggests subsection (3)(A)4 be amended to clarify that basic state installations do not have to include exempt installations and emission units in PTE calculations.

10 CSR 10-6.065(4) Basic State Operating Permits.

Subparagraph (4)(B) 5 states in pertinent part that active initial or renewal notifications “be deemed to be accepted and subject to respective expiration date on the notification.” (Emphasis added). I suggest the MDNR clarify the meaning of “accepted” vis-à-vis whether an installation is deemed “permitted.”

What happens if the APCP rejects a notification form? Is the facility deemed “permitted” during the interim period before it submits a revised notification? I suggest that the answer to this question is “yes” and the regulations be clarified accordingly.

(H) Installation Equipment Log.

This is a new requirement that has not previously been imposed upon basic state installations. Many of our members own multiple facilities that have not previously prepared installation equipment logs. A majority of the equipment at these installations has been grandfathered. Hence, virtually all of this equipment has not been subject to NSR or NSPS regulations and is therefore not identified in construction permits. Furthermore, these installations do not have records when a majority of this grandfathered equipment was installed. Therefore, this new requirement will impose a burdensome task made even more time-consuming because much of the equipment associated with the grain and fertilizer industry lacks identification numbers or other means to accurately describe the equipment.

Most of the grain and fertilizer industry’s equipment consists of grouped emission units such as a group of bins or conveyors. Consequently, there will be multiple pieces of equipment under any given EIQ emission point. Therefore, breaking down grouped emission points into individual emission units to be identified on an equipment log will be time consuming and unreasonably burdensome.

Mo-Ag does not see adequate justification for this new requirement to maintain an installation equipment log. Unlike the construction industry, most, if not all, equipment at the grain and fertilizer industry installations are fixed and not mobile. In addition, unlike the construction industry virtually all grain and fertilizer handling equipment is not NSPS equipment. Therefore, few if any of these installations maintain equipment logs because they are not otherwise required to do so by NSR, NSPS or mobile relocation regulations. Therefore, Mo-Ag respectfully requests MDNR delete the installation equipment log requirement.

(L) Off-Permit Changes.

This regulation discusses off-permit changes that are “not addressed in, constrained by or prohibited by the permit.” I suggest that the word “constrained” is somewhat vague and should be clarified in this regulation.

Under subsection 1 titled "*Compliance with Applicable Requirements*," I would create a new subsection 2 after the first semicolon under present subsection 1 which begins with the clause "no permittee may change a permitted installation...."

Under subsection 2 titled "*Contemporaneous Notice, Exempt Insignificant Activities*," I suggest the notice not be "contemporaneous" but rather within a short, defined time after the change.

Under subsection 3 "*Records of Changes*," there is a requirement that the permittee keep records describing changes "that result in emissions of a regulated air pollutant." Are these changes new emissions, increased, or decreased emissions of a regulated air pollutant?

(T) The Missouri Air Conservation Commission May Require a More Detailed Operating Permit.

This new subsection allows the director to make a recommendation to the Commission to require a more detailed operating permit. In lieu of the MDNR Air Pollution Control Program making a recommendation to the Commission, I suggest this subsection allow the APCP Director to unilaterally require installation to submit a more detailed operating permit. Therefore, if the installation disagrees with the decision, it can appeal the decision to the Missouri Air Conservation Commission. If the Missouri Air Conservation Commission were to make the decision, the appeal would then go to circuit court which is probably not the intent of this subsection.

This concludes Mo-Ag's comments on the Regulatory Impact Report. Please call me should you have any questions on our comments.

Sincerely,

NEWMAN, COMLEY & RUTH, P.C.

By:



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RJB:clv  
cc: Mo-Ag